

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DWAYNE EDMOND WILSON,

Petitioner,

v.

CASE NO. 2:18-cv-10906
HONORABLE VICTORIA A. ROBERTS

LES PARISH,

Respondent.

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**ORDER DENYING AS MOOT PETITIONER'S MOTION TO REQUIRE
RESPONDENT TO FILE ADDITIONAL RULE 5 MATERIALS [9]**

On March 19, 2018, petitioner Dwayne Edmond Wilson filed a habeas corpus petition under 28 U.S.C. § 2254. The Petition challenges Petitioner's convictions for possession of a firearm during the commission of a felony, Mich. Comp. Laws § 750.227b, and two counts of unlawful imprisonment, Mich. Comp. Laws § 750.349b. The sole ground for relief is that the prosecution violated Petitioner's Sixth Amendment right to a speedy trial. Currently before the Court is Petitioner's Motion to Require Respondent to File Additional Rule 5 Materials.

Rule 5 of the Rules Governing Section 2254 requires the respondent in a habeas action to file the relevant transcripts, appellate briefs, appellate opinions, and dispositive orders relating to the conviction or sentence. See Rule 5(c) and (d) foll. 28 U.S.C. § 2254. The Federal Court of Appeals for the Sixth Circuit, moreover, requires Federal District Courts to "make a review of the entire state court trial transcript in habeas cases" *Adams v. Holland*, 330 F.3d 398, 406 (6th Cir. 2003).

On October 1, 2018, counsel for respondent Les Parish filed an answer to the habeas petition and large portions of the state-court proceedings. Petitioner, however, maintains in his pending motion that Respondent neglected to file some of the necessary transcripts, including the transcript for a pretrial hearing held on July 9, 2012, and the trial proceeding held on October 6, 2014

Respondent did not file an answer to Petitioner's motion, but on December 20, 2018, he filed additional transcripts, including the ones specifically requested by Petitioner. The Court believes that it now has all the materials needed for a proper adjudication of Petitioner's habeas claim. The Court, therefore, denies as moot Petitioner's Motion to Require Respondent to File Additional Rule 5 Materials, Docket No. 9.

s/ Victoria A. Roberts
VICTORIA A. ROBERTS
UNITED STATES DISTRICT JUDGE

Date: 6/20/19